IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION - FOR TRANSFER No. 28 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JUGNU DIPAK CHAUDHARY

Versus

DIPAK @ DILIP LAVJIBHAI CHAUDHARY

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Appearance :
MR RC JANI for Applicant.
MR RS PANJWANI for Opponent.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 27/03/2006

ORAL JUDGMENT

This application is filed under Section 24 of Civil Procedure Code by the applicant-wife against the opponent-husband. The opponent herein has filed a petition being Hindu Marriage Petition No.150 of 2004 before Civil Judge (S.D.), Vadodara under Section 13 of the Hindu Marriage Act for getting a decree of divorce.

It is averred in the present application that since applicant-wife is having a minor child, it is difficult for her to travel from Unjha to Vadodara for attending the Court proceedings. It is the case of the applicant that she is performing the duty in hospital as a 'staff nurse' and, therefore also, it is difficult for her to attend the proceedings at Vadodara Court. It is averred in the application that the applicant's son is aged about three years and there is no one to look after the child except the old parents. It is also averred in the application that after completing her duty the applicant is required to go home immediately to attend her child. An apprehension is also exhibited in the application that the applicant may be subjected to some physical assault while undertaking journey from Unjha to Vadodara Court. On these and other grounds, this application is filed for transfer of proceedings from Vadodara Court to Patan District Court.

Mr.Panjwani, learned advocate for the opponent submitted that the applicant can very well attend the proceedings at Vadodara Court as the proceedings may be over in short period. He further submitted that the opponent apprehends that in case the proceedings are transferred at Patan District Court, applicant-wife may institute some false cases against the opponent-husband.

Considering the facts and circumstances of the case and considering the difficulties exhibited in this application and considering the fact that the applicant is having a minor child, it would be in the fitness of things to transfer the proceedings from Vadodara Court to District Court at Patan. As per the averments made in this application, the opponent-husband is financially well-off and, therefore, he can very well travel from Vadodara to Patan District Court in his own vehicle for attending the proceedings.

Considering the facts and circumstances of the case, this

application is allowed. Hindu Marriage Petition No.150 of 2004 pending before the District Court, Vadodara is ordered to be transferred to District Court at Patan. Registry of Vadodara Court is directed to transfer the papers of aforesaid Hindu Marriage Petition immediately to District Court, Patan and after receiving papers of aforesaid case, learned District Judge, Patan, shall assign the matter to the appropriate Judge taking up such matters and, thereafter, the matter may be proceeded further in accordance with law.

Accordingly, this application is allowed. Rule is made absolute with no order as to costs. Writ to be sent to the District Court, Vadodara forthwith for transferring case papers of aforementioned Hindu Marriage Petition to the District Court, Patan.

(P.B.MAJMUDAR, J.)

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